101ST CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-178

DECEPTIVE MAILINGS PREVENTION ACT OF 1989

JULY 26, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. FORD of Michigan, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 2331]

[Including cost estimate of the Congressional Budget Office]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 2331) to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Mailings Prevention Act of 1989".

SEC. 2. AMENDMENTS TO TITLE 39.

(a) PROHIBITION OF DECEPTIVE MAILINGS.—Section 3001 of title 39, United States Code, is amended—

(1) in subsection (d)—

(A) by inserting "(1)" after "(d)";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

"(2) Matter otherwise legally acceptable in the mails which—

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"(A) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

"(B) constitutes, in fact, a solicitation of donations from the addressee;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

"(i) the following notice: 'This is a solicitation of donations, and not a bill, invoice, or statement of accounts due. You are under no obligation to make any payment in response to this mailing.'; or

"(ii) in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe."; and

(2) by redesignating subsections (f) and (g) as subsections (i) and (j), respectively, and by inserting after subsection (e) the following:

"(f) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity for the purchase of products or services and contains a seal, insignia, trade or brand name, or any other term or symbol which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'This product or service has not been approved or endorsed by the Federal Government, and this offer is not being made by an agency of the Federal Government.', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.'; or

"(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

"(g) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity for the contribution of funds and contains a seal, insignia, trade of brand name, or any other term or symbol which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs unless—

"(1) such matter and the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.'; or

"(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

"(h) The prohibition described in subsection (f) of this section shall not apply with respect to matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity if—

"(1) such entity is recognized under law (including the provisions of chapter 59 of title 38) as an agent or attorney of the Federal Government; and

"(2) such matter is deposited in the mails by such entity exclusively for the purpose of carrying out its role as such an agent or attorney."

"(b) DECEPTIVE MAILINGS AS FALSE REPRESENTATIONS.—Section 3005(a) of title 39, United States Code, is amended—

"(1) in the first sentence, by striking "section 3001(d) of this title," and inserting "subsection (d), (f), or (g) of section 3001 of this title (except to the extent provided in subsection (h) of such section),"; and

"(2) in the second sentence, by striking "such section 3001(d)" and inserting "subsection (d), (f), or (g) of such section 3001 (except to the extent provided in subsection (h) of such section)".

"(c) APPLICABILITY.—The amendments made by this section shall apply to matter deposited for mailing and delivery on or after the 180th day after the date of enactment of this Act.

SEC. 3. PROCEDURES GOVERNING THE HANDLING OF MATTER SUSPECTED OF BEING NONMAILABLE MATTER.

Within 8 months after the date of enactment of this Act, the United States Postal Service shall—

"(1)(A) conduct a comprehensive review to determine whether or not the provisions of section 123.33 of the Domestic Mail Manual (as in effect on such date of enactment) are being appropriately observed; and

"(B) take appropriate measures to ensure that any misapplication or misunderstanding of such provisions is corrected among any postal personnel who are responsible for carrying them out;

"(2) conduct a comprehensive review to determine the feasibility of establishing a procedure whereby a sender of mail matter which is denied entry into the mails on the basis of incorrect mail preparation, postage due, or addressing may, through expedited proceedings, obtain a final agency decision as to the mailability of such matter; and

"(3) submit a written report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate describing its findings and actions under this section.

Amend the title so as to read:

A bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes.

EXPLANATION OF AMENDMENTS

The committee amendment to H.R. 2331 strikes all after the enacting clause and inserts a substitute text for the text of the introduced bill. The title is amended to reflect the substitute text. The explanation of the provisons of the substitute text is contained in the explanation of the bill as set forth in this report.

PURPOSE

The purpose of this legislation is to amend title 39 of the United States Code to designate as nonmailable matter (1) solicitations of donations which appear to be bills, invoices or statements of account due, and (2) solicitations which are offered in terms implying any Federal Government connection or endorsment unless such matter contains a conspicuous disclaimer.

COMMITTEE ACTION

H.R. 2331 was introduced by the Honorable Frank McCloskey on May 11, 1989. Hearings were held during the 100th Congress on similar legislation (H.R. 1550 and H.R. 3382) (Serial No. 100–28). Testimony was received from Members of Congress and representatives of the United States Postal Service (Postal Service), associations representing mail users, and associations representing senior citizens. Those hearings led to the introduction of H.R. 4478 (100th Cong.), which passed the House on August 8, 1988. H.R 2331 is similar to H.R. 4478.

On July 11, 1989, the Subcommittee on Postal Personnel and Modernization approved H.R. 2331 for full committee consideration with an amendment in the nature of a substitute. On July 12, 1989, the Committee on Post Office and Civil Service, by a voice vote with a quorum present, ordered the bill favorably reported with an amendment in the nature of a substitute.

Bill Summary

Prohibition of deceptive mailings

—Requires that disclaimers be placed on mailings which appear to be bills, invoices, or statements of accounts due but which in fact solicit donations.

—Provides for disclaimers on mailings, including envelopes, from non-governmental entities which use any insignia or any term or symbol implying any Federal Government connection, endorsement, or approval.

Effective date

—The provisions of the bill described above will become effective six months after enactment of the act.

Postal Service study

—Requires the Postal Service within eight months of enactment to conduct a review to determine whether Postal Service regulations relating to nonmailable items are being adhered to and to determine the feasibility of establishing an expedited problem resolution proceeding for mailers who are denied entry into the mails due to incorrect preparation, postage due, or addressing.

Statement

Under the mail fraud statute (18 U.S.C. 1341) and false representation statute (39 U.S.C. 3005), the Postal Service does not have the authority to challenge mail solicitations which are confusing, deceptive, misleading, or unfair. Nor does the Postal Service have the authority to publish trade practice rules or guidelines which might curtail such advertising techniques.

The Federal Trade Commission (FTC) has jurisdiction to challenge the "unfair methods of competition . . . and unfair or deceptive acts or practices in or affecting commerce" of "persons, partnerships or corporations" (15 U.S.C. 45). However, under the Federal Trade Commission Act, the FTC does not have jurisdiction over certain nonprofit organizations. Also due to the McCarran-Ferguson Act, the FTC does not have jurisdiction over firms or individuals engaged in the business of insurance. FTC officials have indicated to the committee that they have received complaints from consumers regarding alleged mispresentations about the viability of the social security program from groups seeking contributions. However, the FTC's initial review indicated that the organizations involved appeared to be not-for-profit groups that were outside the FTC's jurisdiction and subsequently no action was taken by the FTC.

It is apparent to the committee that current statutes are inadequate to cover the deceptive mail practices which have proliferated over the past few years.

The Select Committee on Aging conducted oversight hearings in 1987 on the issue of direct mail solicitations to the elderly. Those hearings showed that there had been a substantial increase in direct mail solicitations over the past decade. That increase occurred during the same time period that Social Security and medicare programs were increasingly subject to political debate. The Commissioner of Social Security testified before the Select Committee on Aging that there were at least 14 organizations which used deceptive practices to appeal for contributions for services which relate to Social Security benefits. These solicitations are disturbing because, unlike other forms of solicitations, they instill fear among beneficiaries.

Not all deceptive mailings are targeted at senior citizens. During the Select Committee's hearings it became evident that organizations also offered assistance-for-a-fee schemes targeted at groups other than senior citizens. For example, there are companies which offer to obtain a Social Security number for an individual's newborn child for a fee of $10. Of course, any individual can obtain a Social Security number for his or her child at no cost. As a result of those hearings various Members of Congress introduced legislation to address deceptive mailing practives. A later hearing in the 100th Congress on two deceptive mailing bills further highlighted the need for legislation in this area.

Due to concerns raised by some mailers, the committee reluctantly agreed to an amendment deleting provisions relating to disclaimers for items or services which are provided either free or at a lesser cost by the Federal Government. It is apparent from hearings during the 100th Congress that there are problems with a few mailers who offer products or services which are also available from the Government for a fee which is higher than that charged by the Federal Government. However, the committee hopes that H.R. 2331 will deter those few deceptive mailers, who attempt to portray themselves as being Government-connected or endorsed when, in fact, they are not. The committee will continue to monitor this area and, if necessary, it will revisit this particular area of concern.

The committee is not concerned about the vast majority of direct mailings used by nonprofit organizations to solicit contributions for the support of their charitable and political causes, and by American businesses to promote the sale of their products and services. Organizations across the country, including both political parties and nonprofit groups such as the Sierra Club and the ACLU, all use direct mail as a means of communicating with their members and also as a means of raising funds. This bill is not intended to indict the direct mail industry. However, there is concern about those few organizations, individuals, or businesses, whose solicitations and promotional practices are both extremely misleading and deceptive. The committee's desire is to see that direct mail is not used fraudulently or deceptively.

This bill requires that a disclaimer be put on the face of the envelope. The committee believes this provision will make it perfectly

clear to an individual receiving and reading a solicitation that it is not an official mailing. This provision will also assist the Postal Service in its enforcement of the law. Currently it is difficult for the Postal Service to make a judgment on a mailing before it is sent out based on the outside cover of the mailing. The Postal Service cannot open mail based on a suspicion that it may be fraudulent or deceptive.

The provisions of this bill apply to political mailings by individuals, political parties, and political action committees. Any political mailing seeking funds by use of a solicitation that looks like a bill, or by the use of a name, symbol, or insignia which creates the impression that the mailing is connected with or approved by any branch of the Federal Government would be subject to this legislation.

The bill expands existing law concerning solicitations in the form of bills or invoices. A practice developed where promoters would send out solicitations for goods or services that appeared to be bills. Many people would pay the bill without questioning it, thinking that they had already incurred some liability. Some promoters would furnish the goods or services and some would not. A law was enacted which provides that such a false billing statement is nonmailable matter unless there is a disclaimer on its face declaring: "This is a solicitation of goods, and is not a bill, invoice, or statement of accounts due. You are under no obligation to make any payment in response to this mailing." The bill expands existing law to cover solicitations for donations as well as solicitations for goods and services. The following notice must be prescribed on the billing statement: "This is a solicitation of donations, and not a bill, invoice or statement of accounts due. You are under no obligation to make any payment in response to this mailing."

Nonprofit organizations have expressed concern to the committee about possible overly broad application of the bill's provisions by the Postal Service. The committee does not intend for a bill, invoice, or statement of account due in response to a membership commitment or to a pledge that a prospective donor has made, or for renewal of a subscription or a commitment, to require a disclaimer. In the committee's opinion, such mail is sent either in response to a clear expression by the recipient of wanting to join as a member with all the incumbent rights that accompany membership, to collect a pledge made, for for a renewal or a prior subscription or commitment. In such instances, it is the committee's view that the recipient of the mail is knowledgeable about the organization and would not be misled by the document.

Under the provisions of this bill, the Postal Service has been directed to promulgate regulations concerning the disclaimer requirements. The committee expects the Postal Service will provide sufficient time for organizations to comply with the prescribed Postal Service regulations.

The committee has received a number of complaints from mailers who have had their mail either declared nonmailable by local postal personnel or denied entry into the postal system due to incorrect preparation, postage due, or addressing. Mailers have voiced their concerns about incorrect or inconsistent interpretations of the Domestic Mail Manual (DMM), especially in the area of

mail classification. The mailers indicate that they have brought these complaints to the attention of the Postal Service over the past seven years and nothing has been done by the Postal Service to address the problems.

The committee is interested in determining how extensive these problems are and whether a more cost effective procedure can be developed whereby a mailer may request an expedited review of a dispute arising over an interpretation of the DMM. Some mailers have suggested to the committee that a toll-free 800 phone number, a telecopy system, or overnight express mail could be used with significant cost savings to the Postal Service and mailers alike.

The bill requires the Postal Service to look at the feasibility of an expedited dispute resolution procedure, and the committee would like to receive data on the type, frequency, and disposition of disputes arising from incorrect or inconsistent interpretations of the DMM over the past two years. Also, it would be useful for the committee to receive data on the cost to operate the current system of administrative appeals for each of these years and whether cost savings or avoidance could be realized by establishing an expedited dispute resolution procedure.

Finally, the committee would like to receive information on the steps that postal management currently takes to train employees in the field in order to assure that the decentralized decision-making system minimizes costs to both the mailer and the Postal Service.

Section Analysis

The committee amendment strikes all after the enacting clause and inserts a substitute text. The committee amendment is explained below.

Section 1—Short title

This section provides that the Act may be cited as the Deceptive Mailings Prevention Act of 1989.

Section 2—Amendments to title 39

Section 2(a) of the committee amendment amends section 3001 of title 39, United States Code, by redesignating subsections and paragraphs and adding new matter relating to certain mail which shall be considered nonmailable matter unless certain notices of disclaimer are printed on the face of the matter and also, in some cases, on the envelope or outside cover or wrapper.

Paragraph (1) of section 2(a) adds a new section 3001(d)(2) which expands the existing prohibition against mailings which appear to be bills, invoices, or statements of accounts but are in actuality a solicitation from the addressor. Current law prohibits such mailings if they are solicitations for an order for goods or services or both. New paragraph (2) of section 3001(d) prohibits such mailings if they are in actuality a solicitation for donations from the addressee. The materials are declared to be nonmailable matter and shall be disposed of in accordance with Postal Service regulations unless the matter bears on its face, in conspicuous legible type, a notice that the matter is a solicitation for a donation, is not a bill,

invoice, or statement of account, and that the addressed is under no obligation to make any payment in response to the mailing. The Postal Service may prescribe the specific wording and form of the notice in lieu of the suggested notice provided in new paragraph (2).

Section 2(a)(2) of the committee amendment adds new sections 3001(f), (g), and (h) (existing sections 3001(f) and (g) are redesignated accordingly). New subsection (f) of section 3001 provides that, unless a notice of disclaimer is included, matter which constitutes a solicitation by a nongovernmental entity for the purchase of products or services and which contains a seal, insignia, trade or brand name, or any other term or symbol which could reasonably be interpreted or construed as implying any Federal Government connection, approval, or endorsement, is nonmailable. The required notice which would allow the matter to be mailed must state that the product or service has not been approved or endorsed by the Federal Government and the offer is not being made by any agency of the Federal Government (or a notice to the same effect in such words as the Postal Service may prescribe). The disclaimer must be on the face of the matter, and, in addition a notice is required on the envelope, cover or wrapper of the mailing that it is not a Government document. An exception is provided for publications for which the addressee has paid or promised to pay a consideration, or which the addressee has otherwise indicated a desire to receive, unless the solicitation is on behalf of the publisher of the publication.

New subsection (g) of section 3001 prohibits the mailing, without a notice of disclaimer, of any solicitation by a nongovernmental entity for the contribution of donations if the mailing contains a seal, insignia, trade or brand name, or any other term or symbol which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement. The matter may be mailed if it bears a disclaimer on the matter and on the envelope or outside cover or wrapper, in capital letters and in conspicuous legible type that it is not a Government document. An exception for certain publications identical to that previously described in connection with new section 3001(f), supra, is also provided.

New section 3001(h) provides that the prohibition described in new section 3001(f) (relating to certain solicitations for goods and service by nongovernmental entities) shall not apply to matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity if: (1) the entity is recognized under law (including the provisions of chapter 59 of title 38, United States Code, relating to recognition by the Secretary of the Department of Veterans' Affairs of certain organizations, agents, and attorneys) as an agent or attorney of the Federal Government; and (2) the matter is deposited in the mails by the entity exclusively for the purpose of carrying out its role as an agent or attorney.

Section 2(b) of the committee amendment amends section 3005(a) of title 39, United States Code, to provide that matter which is nonmailable under sections 3001(f) and (g) of title 39 (as added by section 2(a) of the committee amendent) shall be considered as part of a scheme or device for obtaining money or property through the

mail by means of false representations. Thus the Postal Service may employ the enforcement procedures contained in section 3005 against persons who mail matter which is nonmailable under new sections 3001(f) and (g) as added by section 2(a) of the committee amendment.

Subsection (c) of section 2 of the committee amendment provides that the amendments made by section 2 shall apply to matter deposited for mailing and delivery on or after the 180th day after the date of enactment of the Act.

Section 3—Procedures governing the handling of matter suspected of being nonmailable matter

Section 3 provides that within 8 months after the date of enactment of the Act, the Postal Service shall conduct two comprehensive reviews. Under Paragraph (1) of section 3, the Postal Service is required to conduct a comprehensive review to determine whether or not the provisions of section 123.33 of the Domestic Mail Manual (relating to the authority of postmasters with respect to the mailability of matter because of its content) are being appropriately observed; and to take appropriate measures to ensure that any misapplication or misunderstanding of such provisions is corrected among any postal personnel who are responsible for carrying them out.

Paragraph (2) of section 3 requires the Postal Service to conduct a comprehensive review to determine the feasibility of establishing a procedure whereby a sender of mail matter which is denied entry into the mails on the basis of incorrect mail preparation, postage due, or addressing may, through expedited proceedings, obtain a final agency decision as to the mailability of that matter.

Paragraph (3) of section 3 requires the Postal Service to submit a written report to the Committee on Post Office and Civil Service and the Committee on Governmental Affairs describing its findings under section 3.

COST

The cost estimate prepared by the Congressional Budget Office pursuant to sections 308(a) and 403 of the Congressional Budget Act of 1974, as amended, is set forth below.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 20, 1989.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2331, the Deceptive Mailings Prevention Act of 1989, as ordered reported by the House Committee on Post Office and Civil Service, July 12, 1989. CBO estimates that enactment of this bill would result in no significant cost to the federal government and in no cost to state or local governments.

H.R. 2331 would prohibit the mailing of solicitations for donations that appear to be bills or invoices. The bill would also prohibit the mailing of solicitations by nongovernmental entities for the

purchase of products or services or for the contribution of funds that imply any federal government approval or endorsement. In addition, H.R. 2331 would require the U.S. Postal Service, within eight months after enactment, to conduct a comprehensive review to determine whether or not the provisions regarding nonmailable items are being appropriately observed, and if not, to take appropriate measures to correct any misapplication or misunderstanding of such provisions.

Based on information from the Postal Service, CBO estimates that enactment of this bill would result in no significant cost to the federal government. Enforcement of the bill's prohibitions would be carried out as part of the Postal Service's normal operations.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the Subcommittee on Postal Personnel and Modernization is vested with legislative and oversight jurisdiction over the subject matter of this legislation. As a result of hearings, the subcommittee concluded that there is ample need and justification for enacting this legislation.

The subcommittee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the committee has concluded that enactment of H.R. 2331, as amended, will have no inflationary impact on the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 39, UNITED STATES CODE

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PART IV—MAIL MATTER

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§ 3001. Nonmailable matter

(a) * * *

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(d)*(1)* Matter otherwise legally acceptable in the mails which—

[1**]** *(A)* is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

[2**]** *(B)* constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

[A**]** *(i)* the following notice: "This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of accounts due. You are under no obligation to make any payments on account of this offer unless you accept this offer"; or

[B**]** *(ii)* in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe.

(2) Matter otherwise legally acceptable in the mails which—

(A) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due: but

(B) constitutes, in fact, a solicitation of donations from the addressee;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

(i) the following notice: "This is a solicitation of donations, and not a bill, invoice, or statement of accounts due. You are under no obligation to make any payment in response to this mailing."; or

(ii) in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe.

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(f) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity for the purchase of products or services and contains a seal, insignia, trade or brand name, or any other term or symbol which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

(1)(A) such matter bears on its face, in conspicuous and legible type on contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: "This product or service has not been approved or endorsed by the Federal

Government, and this offer is not being made by an agency of the Federal Government.", or a notice to the same effect in words which the Postal Service may prescribe; and

(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: "THIS IS NOT A GOVERNMENT DOCUMENT."; or

(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(g) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity for the contribution of funds and contains a seal, insignia, trade or brand name, or any other term or symbol which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs unless—

(1) such matter and the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: "THIS IS NOT A GOVERNMENT DOCUMENT."; or

(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(h) The prohibition described in subsection (f) of this section shall not apply with respect to matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity if—

(1) such entity is recognized under law (including the provisions of chapter 59 of title 38) as an agent or attorney of the Federal Government; and

"(2) such matter is deposited in the mails by such entity exclusively for the purpose of carrying out its role as such an agent or attorney.

[f**]**) (*i*) Except as otherwise provided by law, proceedings concerning the mailability of matter under this chapter and chapters 71 and 83 of title 18 shall be conducted in accordance with chapters 5 and 7 of title 5.

[g**]** (*j*) The district courts, together with the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, upon cause shown, to enjoin violations of section 1716 of title 18.

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§ 3005. False representations: Lotteries

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable under [section 3001(d) of this title,] *subsection (d), (f), or (g) of section 3001 of this title (except to the extent provided in subsection (h) of such section),* or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

(1) directs the postmaster of the post office at which mail arrives, addressed to such a person or to his representative, to return such mail to the sender appropriately marked as in violation of this section, if the person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender;

(2) forbids the payment by a postmaster to the person or his representative of any money order or postal note drawn to the order of either and provides for the return to the remitter of the sum named in the money order or postal note; and

(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.

For the purposes of the preceding sentence, the mailing of matter which is nonmailable under [such section 3001(d)] *subsection (d), (f), or (g) of such section 3001 (except to the extent provided in subsection (h) of such section)* by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

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